



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,686	11/10/2003	Leif N. Bowman	047711-0331	4638

23392 7590 11/13/2007
FOLEY & LARDNER
2029 CENTURY PARK EAST
SUITE 3500
LOS ANGELES, CA 90067

EXAMINER

STIGELL, THEODORE J

ART UNIT	PAPER NUMBER
----------	--------------

3763

MAIL DATE	DELIVERY MODE
-----------	---------------

11/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

H

Office Action Summary

Application No.

10/705,686

Applicant(s)

BOWMAN ET AL.

Examiner

Theodore J. Stigell

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23, 26-28 and 31-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-23, 28 and 39 is/are allowed.
- 6) ☒ Claim(s) 1-14, 26, 27, 31-38 and 40 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Claim(s)

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Claim Objections

The objection to claims 17-18 are withdrawn in light of the amendments filed on 8/29/2007.

Claim 10 is objected to because of the following informalities: The amendments to claim 10 are not clear because the connector itself is rotatable, not the step of positioning the connector. The examiner suggests incorporating the new limitation of "rotation while the cannula is at the subcutaneous position" into the "wherein adjusting the position of the delivery tubing" clause. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

8/29/07 (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8/29/07 Claims 1-14, 26-27, 31-38, and 40 are rejected under 35 U.S.C. 102(e) as being "rotatable" anticipated by Kihara et al. (6,579,265). Kihara discloses an infusion set comprising a base (41,42), a cannula (4in or 4out) connected to and extending away from the base, a connector (24) removably attached to the base, a tubing (5in or 5out), wherein the connector is rotatable on the base to more than 5 degrees and less than 360 degrees from the

8/29/07 A person

Art Unit: 3763

around a perpendicular axis when attached to the base, wherein the connector comprises at least one stop (45,49,50) for inhibiting rotation, and wherein a contiguous passage for passing fluids is formed from the tubing to the cannula when the connector is removably attached to the base, wherein the base comprises barriers (43,44) extending away from the surface of the base, wherein the stop extends away from a surface of the connector, wherein the barrier is disposed around the circumference of the base to restrict movement of the stop when the connector is rotated about the base, and wherein the connector can be attachable to the base in a plurality of different connection positions wherein the stop can be placed in different intervals between the two barriers, wherein the connector is at least partially rotatable when the cannula is inserted subcutaneously and free to rotate to any degree when the cannula is not inserted subcutaneously.

Allowable Subject Matter

is removed.
 extending

Claims 15-23, 28, and 39 allowed.

Response to Arguments

surface of
 the base
 base,
 not persuasive. In response to the applicant's argument that Kihara does not disclose a
 and wherein
 connector that is rotatable on the base while the cannula is at the subcutaneous
 connector
 position, the examiner respectfully disagrees. The connector is at least partially
 two barriers
 rotatable when the cannula is inserted subcutaneously and free to rotate to any degree
 is inserted
 when not inserted. Claim 15 is allowed because it recites the range of rotation while the
 inserted
 cannula is inserted at a subcutaneous position.

Art Unit: 3763

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theodore J. Stigell whose telephone number is 571-272-8759. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

273-8300


Theodore J. Stigell


NICHOLAS D. LUCCHESI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

published

Status inf

For more

you have

1-800-786-9199

10/11